

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Christopher Lindsey,

Case No. 21-cv-1757 (ECT/DTS)

Petitioner,

v.

REPORT AND RECOMMENDATION

B. Birkholz and M. Carvajal,

Respondents.

On August 3, 2021, the Clerk of this Court sent Petitioner Christopher Lindsey a letter (1) stating that the Court had not received from Lindsey either this action's filing fee or an application to proceed in forma pauperis ("IFP"); (2) enclosing a copy of this District's template IFP application; and (3) warning Lindsey that if the Court did "not receive [his] filing fee or [IFP application], [his] case could be summarily dismissed without prejudice." Order 1, ECF No. 4. It has been several weeks since the Clerk sent this letter, and Lindsey has not submitted a filing fee or IFP application. (In fact, Lindsey has not communicated with the Court about this case at all since commencing this action.) Accordingly, under Rule 41(b) of the Federal Rules of Civil Procedure, this Court now recommends dismissing this action without prejudice for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").¹

¹ If Lindsey submits his filing fee or IFP application within 14 days of this Report and Recommendation's date, the Court will rescind this Report and Recommendation and the case will proceed.

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY RECOMMENDED that this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: September 2, 2021

s/David T. Schultz
DAVID T. SCHULTZ
U.S. Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).